

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION**

Timothy Lavar VanDerHorst,

Plaintiff,

V.

Ofc. King, *et al*,

Defendants.

Case No. 2:20-cv-2501-RMG

## ORDER

This matter is before the Court on the Report and Recommendation (“R&R”) of the Magistrate Judge (Dkt. No. 41) recommending that the Court dismiss Plaintiff’s complaint with prejudice for failure to prosecute. On October 14, 2020, Defendants filed a motion to dismiss. (Dkt. No. 31). On October 19, 2020, the Magistrate Judge, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), advised Plaintiff of the dismissal and summary judgment procedures and the possible consequences if he failed to respond adequately. (Dkt. No. 34). Plaintiff failed to respond to the motion and the Magistrate Judge advised Plaintiff, on November 24, 2020, that he had an additional fourteen days in which to file his response to Defendants’ motion. (Dkt. No. 38). Plaintiff was specifically warned that if he failed to respond, his action would be recommended for dismissal with prejudice for failure to prosecute. Plaintiff did not respond and on December 16, 2020, the Magistrate Judge issued an R&R, (Dkt. No. 41), recommending this action be dismissed with prejudice pursuant to Fed. R. Civ. P. 41(b). On December 21, 2020, Plaintiff requested additional time to respond to the R&R. (Dkt. No. 43). The Court granted Plaintiff’s request. (Dkt. No. 44). The Court extended Plaintiff’s time to respond to the R&R until January 31, 2021. To date, however, Plaintiff has not responded to the R&R or otherwise communicated with the Court. Thus, having reviewed the R&R, and having

found that the Magistrate Judge correctly determined that Plaintiff's complaint should be dismissed for failure to prosecute, the Court **ADOPTS** the R&R (Dkt. No. 41) as the order of the Court and **DISMISSES** Plaintiff's complaint with prejudice for failure to prosecute.

**AND IT IS SO ORDERED.**

s/ Richard Mark Gergel  
United States District Court Judge

February 5, 2021  
Charleston, South Carolina